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| 10/565,272 | 07/10/2006 | Hiidenobu Miyake | 0002.1010 | 7833 |
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| STAAS & HALSEY LLP | | | HELVEY, PETER N. | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--------------------------------------|
| Office Action Summary | Application No. 10/565,272 | Applicant(s) MIYAKE ET AL. |
| | Examiner PETER HELVEY | Art Unit 3782 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 January 2011.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
 - 4a) Of the above claim(s) 5-11 and 14-17 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4, 12, 13, 18-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-878)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No./Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No./Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-4, 12, 13 and 18-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Nothing in applicant's disclosure as originally filed supports the newly added negative claim limitations of the steam vent being provided only in the inner sheet part, particularly with respect to the elected Species 2. Figures 6(b), 7, and 8 all clearly show (and are described as having) the steam venting means (11) extending through all layers of the fold in part, which the does not support a negative claim limitation limiting the venting means to strictly a single layer absent express disclosure of such in the description as originally filed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 12, 18-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Mita et al.* (US PGPub 2003/0123758, hereinafter '*Mita*') in view of *Matsuda et al.* (US PGPub 2004/0045842, hereinafter '*Matsuda*') and *Hamilton et al.* (US 7004632).

Mita discloses a packaging bag having a steam venting function, said packaging bag comprising: two sheets of front and back main body films having respective sealant layers (Figs. 21A, 21C), said two sheets being laid facing each other with said sealant layers inward to form a bottom seal part and side seal parts by sealing the sealant layers three sides of the laid two sheets; a fold-in part (44), with an inner sheet part and an outer sheet part facing each other by bending the front main body film into a Z shape in the vicinity of the bottom seal part across an entire bag width parallel to said bottom seal part and with the inner sheet facing the bottom seal part (Fig. 21C); and said fold-in part has a steam venting port (hole in middle of 46, typical); and a seal part (Fig. 21C).

Mita does not expressly disclose the steam venting port being provided only in the inner sheet part, the seal part including an easily peelable tape including an easily peelable side having an easily peelable property on one side thereof and a high-strength adhesive side having a high strength adhesive property on an opposite side of the easily peelable side throughout a width direction of the bag parallel to the fold-in part within the fold-in part thereby to cover the steam venting port provided only in the inner sheet part by overlapping

the steam venting port provided only in the inner sheet part and heat-seal the easily peelable side of the easily peelable tape to an inner sheet side of the fold-in part, and wherein said easily peelable seal part, is capable of a delamination due to thermally welding and binding the easily peelable side of the easily peelable tape and a sealant layer of the inner sheet part over said steam venting port provided only in the inner sheet part.

However, *Matsuda* teaches providing an easy peel tape (10, 11, 12; Fig. 18) with different adhesive strengths as claimed by applicant inside a secondary chamber of a pouch to control access between the chambers.

Mita teaches using the same sealing technique as for the edges of the bag used at the steam vent, relying on the location of the point seal to result in higher forces than at the edges. *Matsuda*'s seal relies on differing adhesive strengths of the sides of the tape to ensure one side releases when desired, similar to applicant. The examiner has taken the position that this advantage of *Matsuda* would have been obvious to apply to *Mita* to anyone having ordinary skill in the art at the time of the invention because using an adhesive with a predictably low release strength around a steam venting port is old and notoriously well known in the art to allow the steam release to occur at exactly whatever pressure the manufacturer/designer desires.

All of the component parts are known in *Matsuda* and *Mita*. The only difference is the combination of all the known elements into a single device by

incorporating the easy peel tape taught by *Matsuda* into the fold section taught by *Mita*.

Thus, it would have been obvious to one having ordinary skill in the art to add the easy peel tape taught by *Matsuda* to the fold section taught by *Mita*, since the addition would allow the manufacturer to set the steam release pressure at whatever point was desired via the easy peel adhesive strength and the well known variability thereof as desired.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the *Matsuda* tape facing either direction (easy peel adhesive inside or outside), since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

The combination detailed above discloses the limitation(s) of the claims except for the steam release point is provided in the outer sheet part instead of the inner sheet part as claimed. The examiner notes that the disclosure of *Mita* does not expressly disclose the steam release being formed in either sheet layer but rather just shows it on the outer sheet in the figures, as referenced by applicant. *Mita* discloses no criticality to which sheet layer the steam venting means is located in, simply teaching providing it spaced from the main body container portion.

However, *Hamilton et al.*, specifically figures 8A and 8B, clearly shows and describes that providing steam venting means in a folded bag portion in either the inner or outer sheet layers are known equivalents.

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to locate the steam venting means taught by *Mita* in the inner sheet layer instead of the outer sheet layer as desired, since *Hamilton et al.* demonstrates the two locates are known equivalents. The examiner notes additional cited, but unapplied, art teaches locating a steam venting means on an inner sheet part, albeit not in a Z-shape fold, however the examiner considers such a modification of relocating parts to be clearly within the level of ordinary skill at the time the invention was made.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to move the steam venting port from the outer sheet layer to the inner sheet layer, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Mita as modified by *Matsuda* and *Hamilton et al.* further discloses an opposite side of said easily peelable side of the easily peelable tape is made as a high strength adhesive side, and said seal part is provided by heat-sealing in making said easily peelable side of the easily peelable tape positioning to the inner sheet part side of the fold-in part and in making the high strength adhesive side of the easily peelable tape positioning to the outer sheet part side of the fold-

in part, and said high strength adhesive side of the easily peelable tape in said seal part and the sealant layer of the outer sheet part are thermally welded and combined together so that the delamination of the high strength adhesive side by the steam pressure is not possible, said steam venting port is formed by cutting said seal part, said seal part has one or more non-seal parts including a non-seal region with one side continuous to a mountain folding edge of the fold-in part while the three other sides are surrounded by a seal region and said steam venting port is positioned in said non-seal part (Fig. 21C, exchange point seal for alternative in Fig. 22C), and the high strength adhesive side of a lower edge part in said easily peelable tape is thermally welded and combined to a sealant layer of said outer sheet part throughout a longitudinal direction of the tape in an incapable state of the delamination by the steam pressure (as taught by *Matsuda*).

Regarding the limitation "so that the delamination by the steam pressure is not possible", the examiner maintains the following interpretation. The device taught by *Mita* as modified by *Matsuda* and *Hamilton et al.* is considered to meet the scope of the claim because the release of the easy peel side of the adhesive tape would start the steam venting process such that pressure could not build to rupture a permanently sealed side.

Regarding claims 18 and 25, the examiner maintains that the combination above results in a device clearly capable of the recited functions.

5. Claims 13 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Mita* in view of *Matsuda* and *Hamilton et al.* as applied to claim 4 above, and further in view of JP 10-101154, hereinafter *Japanese Reference 1*.

Mita as modified by *Matsuda* and *Hamilton et al.* discloses all limitations of the claim as detailed above except does not expressly disclose the additional holes as claimed.

However *Japanese Reference 1* teaches providing such holes (4) in the sealant layers in order to form a pressure release valve (Figs. 1, 2, 4).

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to add the holes taught by *Japanese Reference 1* to the edges of the seal and tape parts taught by *Mita* as modified by *Matsuda* and *Hamilton et al.*, in order to provide an additional steam release means.

Response to Arguments

6. Applicant's arguments with respect to claims 1-4, 12, 13, and 18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3782

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER HELVEY whose telephone number is (571)270-1423. The examiner can normally be reached on M-Th 8:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. H./
Examiner, Art Unit 3782
February 4, 2011

/Justin M Larson/
Primary Examiner, Art Unit 3782
2/5/11